THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.3615 of 1998

Dated : 17.04.2007

Between:

Ch.Jahnavi and others.

… **PETITIONERS**

And:

Joint Collector and Additional District Magistrate,
Guntur and others.

….**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.3615 of 1998

ORDER:

Petitioners, who are five in number, are *bona fide* purchasers of the land admeasuring Acs.37.63 cents in Sy.Nos.290, 291, 292 and 293 situated at Vundavalli village of Tadepalli Mandal, Guntur District, for a valid consideration under five registered sale deeds dated 01.09.1992. But the Mandal Revenue Officer, Tadepalli, third respondent herein, issued notice to the petitioners stating that they were found to be in possession of the assigned lands in contravention of the provisions of Sub-Section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, and thereby they were called upon to show cause why they should not be summarily evicted from the said land. The petitioners submitted their explanation to the said notice and thereafter, the third respondent, after holding an enquiry, passed an order dated 08.02.1993, ordering resumption of the said land to the Government. Aggrieved thereby, petitioners preferred

an appeal before the second respondent. But the said appeal was also dismissed on 17.01.1996. Against the same, petitioners preferred second appeal before the first respondent and the first respondent also, by his order dated 12.11.1997, dismissed the said appeal. Hence, this writ petition.

Despite service of notice, the respondents have not chosen to file any counter.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

Learned counsel for the petitioners contends that the land in question is a patta land and in the sale deeds executed in favour of the petitioners it is clearly mentioned that it is the property belonging to the ancestors of the vendors of the petitioners, but the third respondent has not taken the said fact into consideration while ordering resumption of the said land. He further contends that the second respondent also did not hear the petitioners before disposing of the appeal and without considering the said aspect, the first respondent also dismissed the appeal, and as such the said orders are violative of principles of natural justice.

Admittedly, the second respondent disposed of the appeal preferred by the petitioners on 17.01.1996, on which date neither the petitioners nor their counsel attended for hearing. But, the learned counsel for the petitioners submits that the second respondent intimated the date of hearing as 12.02.1996 to the counsel appearing for the petitioners, and hence, neither the petitioners nor their counsel appeared before the second respondent on 17.01.1996. The said fact is not controverted by the respondents. Hence, this Court has no option but to accept the said contention. When the second respondent intimated to the petitioner's counsel that the matter would be heard on 12.02.1996, it is not right on the part of the second respondent to say

that neither the petitioners nor their counsel were present on that day, and even the first respondent, without considering the said aspect, dismissed the appeal preferred before him by confirming the order of the second respondent. Hence, this Court is of the view that the orders passed by respondents 1 and 2 are violative of principles of natural justice.

Accordingly, the writ petition is disposed of and the orders dated 17.01.1996 and 12.11.1997, passed by respondents 1 and 2, are hereby set aside and the matter is remanded to the second respondent-Revenue Divisional Officer, Guntur, for hearing the matter afresh and passing appropriate orders. The second respondent is hereby directed to issue notice to the petitioners informing the date of hearing, and the petitioner shall appear before him and advance their arguments. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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17.04.2007

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